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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
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8 EDILFREDO CHAVEZ,

9 Petitioner,

3:14-cv-00373-RCJ-VPC

10 vs.

11 ROBERT LeGRAND, *et al.*,

12 Respondents.

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15 **ORDER**

16 In this habeas corpus action, the respondents filed a motion to dismiss on February 19, 2015
17 (ECF No. 20). On May 7, 2015, the petitioner, Edilfredo Chavez, filed an opposition to the motion
18 to dismiss (ECF No. 22), along with a motion for stay (ECF No. 23). On June 5, 2015, respondents
19 filed a reply in support of their motion to dismiss (ECF No. 26), and an opposition to the motion for
20 stay (ECF No. 27). On June 12, 2015, Chavez filed a reply in support of his motion for stay (ECF
No. 28).

21 On June 12, 2015, Chavez also filed a Motion for Leave to File Surreply (ECF No. 29), in
22 which he requests leave of court to file a surreply, responding to respondents argument that
23 respondents did not, by their silence, waive the requirement of exhaustion of state-court remedies
24 with respect to Ground 2 of Chavez's amended habeas corpus petition. Chavez's proposed surreply
25 is attached to his Motion for Leave to File Surreply. Good cause appearing, the court will grant that
26 motion, and will allow the filing of the surreply.

1 However, as it appears that Chavez's argument in his surreply, that respondents waived
2 the exhaustion requirement with respect to Ground 2 by their silence, may be contrary to
3 28 U.S.C. § 2254(b)(3) ("A State shall not be deemed to have waived the exhaustion requirement or
4 be estopped from reliance upon the requirement unless the State, through counsel, expressly waives
5 the requirement."), the court will grant respondents an opportunity to respond to Chavez's surreply.

6 There will be no further briefing of the motion to dismiss or the motion for stay.

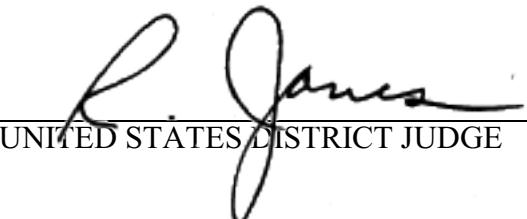
7 **IT IS THEREFORE ORDERED** that petitioner's Motion for Leave to File Surreply (ECF
8 No. 29) is **GRANTED**. Petitioner is granted leave of court to file his surreply in opposition to the
9 motion to dismiss.

10 **IT IS FURTHER ORDERED** that the clerk of the court shall separately file the surreply
11 (which is attached as an exhibit to the Motion for Leave to File Surreply (ECF No. 29)).

12 **IT IS FURTHER ORDERED** that respondents may, within 10 days from the entry of this
13 order, file a response to petitioner's surreply.

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15 Dated this 16th day of June, 2015.

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UNITED STATES DISTRICT JUDGE